

TOWN OF GRAND CHUTE
ORDINANCE O-06-2018, SERIES OF 2018

AN ORDINANCE AMENDING CHAPTER 398 OF THE CODE OF GENERAL ORDINANCES FOR THE TOWN OF GRAND CHUTE, OUTAGAMIE COUNTY, WISCONSIN, WHICH REGULATES PUBLIC NUISANCES IN THE TOWN OF GRAND CHUTE.

WHEREAS, Chapter 398 of the Town of Grand Chute Municipal Code relating to public nuisances establishes that “[n]o person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Grand Chute;” and,

WHEREAS, Chapter 398 defines public nuisances, in part, as a “condition or use of property which shall continue for such length of time as to, annoy, injure, or endanger the comfort, health, repose or safety of the public;” and,

WHEREAS, Violations of Chapter 423 of the Town of Grand Chute Municipal Code relating to property maintenance regularly have the effect of annoying, injuring, or endangering the comfort, health, repose or safety of the public; and

WHEREAS, Chapter 398 currently does not incorporate in its list of acts, omissions, places, conditions, and things declared to be public nuisances affecting peace and safety those conditions described in Chapter 423 commonly associated with property maintenance violations that annoy, injure, or endanger the comfort health, repose or safety of the public, nor does it include Chapter 423 in the list of Chapters for which violations could constitute a public nuisance;

NOW THEREFORE BE IT ORDAINED by the Board of Supervisors of the Town of Grand Chute, Outagamie County, Wisconsin, that Chapter 398, Sections 398-2 and 398-3 of the Grand Chute Municipal Code, are hereby amended and adopted as follows:

§ 398-2 **Public nuisances defined.**

- A.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
 - (2) In any way render the public insecure in life or in the use of property.
 - (3) Greatly offend the public morals or decency.
 - (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- B.** Public nuisances affecting health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration

shall not be construed to exclude other health nuisances coming within the definition of "public nuisance" of this section:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) Privy vaults and garbage cans which are not flytight.
- (6) Noxious weeds, as defined in § 66.0407(1)(b) and § 23.235(1)(a), Wis. Stats., invasive species as defined in Ch. NR 40, Wis. Adm. Code, and rank growth of other vegetation, as defined in § 423-4 of the Town of Grand Chute Municipal Code that exceed eight inches in height. Rank growth of vegetation and noxious weeds adversely impact public health and safety, and can decrease adjacent property values. This subsection applies to properties zoned or used for residential, commercial and industrial purposes, including vacant lots in platted subdivisions. Exceptions include gardens, cultivated flower beds, environmentally sensitive areas, and natural landscaping, as defined in § 423-4 of the Town of Grand Chute Municipal Code.

[Amended 4-23-2015 by Ord. No. 2015-06; 11-1-2016 by Ord. No. 2016-08]

- (7) All animals running at large.
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- (9) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (10) Any use of property, substances or things within the Town of Grand Chute emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.
- (11) All abandoned wells not securely covered or secured from public use.
- (12) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

C. Public nuisances offending morals and decency. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of "public nuisance" of this section:

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) All gambling devices and slot machines.
- (3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Town of Grand Chute.^[1]

[1] *Editor's Note: See Ch. 335, Intoxicating Liquor and Fermented Malt Beverages.*

- (4) Any place or premises within the Town of Grand Chute where Town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Town.

D. Public nuisances affecting peace and safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of "public nuisance" of this section:

- (1) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of their color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.
- (2) All trees, hedges, or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. All limbs of trees which project above the surface of a public sidewalk or street or above any other public place shall be kept trimmed to a reasonable height to allow for safe use and passage.
- (3) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.^[2]

[2] *Editor's Note: See Ch. 295, Fireworks.*

- (4) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (5) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (6) All loud, discordant and unnecessary noises or vibrations of any kind.
- (7) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- (8) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.

- (9) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (10) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (11) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (12) Repeated or continuous violations of the ordinances of the Town or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (13) Any violation of the ordinances of the Town of Grand Chute and the laws of the State of Wisconsin and the Administrative Code of the State of Wisconsin adopted by reference under Chapter 291, Fires and Fire Prevention, of this Code, particularly but without limitation Ch. Comm 10, Wis. Adm. Code, as relates to the storage of flammable liquids, etc.
- (14) All junked, disassembled, inoperable or wrecked motor vehicles, or parts thereof, which have been allowed to remain outside of any building upon public or private property for a period in excess of three (3) days, unless in connection with an automotive sales or repair business located in a properly zoned area.
- (15) Any construction debris or materials, unsightly debris, trash, wood, brick, washing machines, refrigerators or junk such as may tend to depreciate property values or be detrimental to the appearance, neatness and cleanliness of the neighborhood, provided that nothing in this subsection shall prohibit reasonable storage of construction materials during the construction of any building or structure.

§ 398-3 **Chronic nuisances.**

[Added 2-19-2009 by Ord. No. 6-2009]

A. Definitions. The following terms shall be defined as follows in this section:

CHIEF

The Chief of Police or his/her designee and the Fire Chief or his/her designee.

DEPARTMENT HEAD

Includes the Director of Community Development and/or Public Works Director.

EFFECT OF PROPERTY CONVEYANCE

- (1) When title to property is conveyed, any nuisance activity that occurred before the conveyance may not be used to establish the property as a chronic nuisance property unless the reason for the conveyance was to avoid a determination that the property was a chronic nuisance property.
- (2) There is a rebuttable presumption that a reason for the conveyance of property was to avoid a determination that the property was a chronic nuisance property if:
 - (a) The property was conveyed for less than fair market value.
 - (b) The property was conveyed to an entity controlled by a person conveying the property.

(c) The property was conveyed to a relative of a person conveying the property.

ENFORCEMENT ACTION

Arrest, the issuance of a citation, or the issuance of a written or verbal warning.

NUISANCE ACTIVITY

Any of the following activities, behaviors, or conduct whenever engaged in by property owners, operators, tenants, occupants, or persons associated with premises:

- (1) An act of harassment, as defined in § 947.013, Wis. Stats.
- (2) Disorderly conduct, as defined in § 947.01, Wis. Stats.
- (3) Crimes of violence, as defined in Ch. 940, Wis. Stats.
- (4) Obstructing or resisting an officer, as defined in § 946.41, Wis. Stats.
- (5) Crimes against sexual morality, as defined in Ch. 944, Wis. Stats.
- (6) Any gambling crimes, as defined in Ch. 945, Wis. Stats.
- (7) Animal violations, as defined in Chapter **197** of this Code.
- (8) Theft, as defined in § 943.20, Wis. Stats.
- (9) Receiving stolen property, as defined in § 943.34, Wis. Stats.
- (10) Damage to property, as defined in § 943.01, Wis. Stats.
- (11) Arson, as defined in § 943.02, Wis. Stats.
- (12) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Ch. 961, Wis. Stats.
- (13) Trespassing, as defined in §§ 943.13 and 943.14, Wis. Stats.
- (14) Weapons violations, as defined in Chapter **415** of this Code.
- (15) Noise violations, as defined in Chapter **415** of this Code.
- (16) Alcohol violations, as defined in Chapter **335** of this Code and § 125.07, Wis. Stats.
- (17) Loitering and curfew violations, as defined in Chapter **415** of this Code.
- (18) Reckless driving, as defined in § 346.62, Wis. Stats.
- (19) Any conspiracy to commit, as defined in § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in Subsections (1) through (18) above.
- (20) The execution of arrest or search warrants at a particular location.
- (21) Town of Grand Chute inspection-related calls where the Police Department responds.
- (22) Drug or criminal gang house as defined by § 823.113, Wis. Stats. Section 823.113, Wis. Stats., is hereby adopted by reference as a Town ordinance. At the discretion of the Chief of Police, the action provided therein may be in the name of the Town, county or state.
- (23) Nuisances as defined by Ch. 823, Wis. Stats., which include but are not limited to:

823.065

Flammable liquids

823.07	Noxious business
823.09	Bawdy houses
823.10	Disorderly house
823.21	Dilapidated buildings

(24) Violations of the Code of the Town of Grand Chute, which include any and all sections of the following chapters or articles:

Chapter 190	Amusements
Chapter 197	Animals
Chapter 220	Building Construction
Chapter 230	Cable Television
Chapter 241	Cigarettes
Chapter 252	Dances and Dance Halls
Chapter 259	Direct Sellers, Auctions and Closeout Sales
Chapter 275	Erosion and Sediment Control
Chapter 291	Fires and Fire Prevention
Chapter 295	Fireworks
Chapter 317	Housing Standards
Chapter 335	Intoxicating Liquor and Fermented Malt Beverages
Chapter 349	Junk Dealers
Chapter 382	Mobile Homes and Mobile Home Parks
Chapter 398	Nuisances
Chapter 412	Pawnbrokers and Secondhand Dealers
Chapter 415	Peace and Good Order
<u>Chapter 423</u>	<u>Property Maintenance</u>
Chapter 440, Article III	Sewers: Illicit Discharges and Connections
Chapter 456	Special Events
Chapter 463	Storm water Management
Chapter 468	Streets and Sidewalks
Chapter 480	Taxicabs

Chapter 492

Tracks

Chapter 497

Trees and Shrubs

Chapter 535

Zoning

OWNER

The owner of the premises and his/her agents.

PERSONS ASSOCIATED WITH

Any person who, whenever engaged in a nuisance activity, enters, occupies, patronizes, visits or attempts to enter, occupy, patronize or visit a property. Includes any officer, director, customer, agent, employee or independent contractor of a property owner, tenant, or occupant.

PREMISES

An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas located in the Town.

- B.** Notice. Whenever a Chief or department head determines that three or more nuisance activities resulting in enforcement action have occurred at the premises during a twelve-month period, the Chief or department head may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief or department head may count separate qualifying nuisance activities resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days but shall never count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address and, where the enforcement action involves the owner of the premises, the legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeals rights of the owner.
- C.** Delivery of notice. The notice shall be deemed to be properly delivered if either sent by certified mail to the property owner's last known address or delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed properly delivered if left at the property owner's usual place of residence in the presence of a competent family member at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by certified mail to the last known address of the owner as identified by the records of the tax roll.
- D.** Abatement plan. Any owner receiving notice pursuant to Subsections **B** and **C** shall meet with the Chief, or his/her designee, within five business days of receipt of such notice. The parties shall review the problems occurring at the property and agree upon an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.
- E.** Additional nuisance activity. Whenever the Chief determines that additional nuisance activity has occurred at a premises not less than 15 business days after notice has been issued and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of police response and enforcement for this and any subsequent nuisance

activities. The Chief shall also cause such charges and administrative costs to be assessed against the premises as a fee for current service authorized by §§ 61.34, 66.0628 and 74.01, Wis. Stats., and collected as a special charge which the Town may impose as a lien against the real estate upon which the premises is located.

- F. Appeal. Appeal of the determination of the Chief of Police pursuant to either the notice, abatement plan, or the levying of special charges may be made solely to the Town Board requesting a hearing. Notice of appeal must be in writing and submitted to the Town Board in care of the Town Clerk with a copy submitted to the Chief of Police. Chapter 68, Wis. Stats., does not apply to this section.
- G. Additional enforcement authority. The Town hereby adopts and incorporates the authority granted the Town pursuant to § 823.01, Wis. Stats., and adopts and authorizes enforcement procedures as set forth in §§ 823.015, 823.02, 823.03, 823.04, 823.05 and 823.06, Wis. Stats.
- H. Penalty.
- (1) Any person who shall violate any provision of this section shall, upon due conviction thereof, forfeit not less than an amount set forth in § 398-16 for each such offense, together with the costs of prosecution, and in default of the payment of such forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed 30 days.
 - (2) In addition to imposition of a fee for services constituting a special charge against the real estate imposed under this section, the Town may pursue injunctive relief against the owner in the Circuit Court for Outagamie County. All legal costs and attorney fees incurred by the Town for enforcement of this section, pursuant to any remedy available, shall be payable to the Town by the owner of the premises. Judgment for such obligations may be obtained by the Town in either the Small Claims Court or Circuit Court for Outagamie County.

END OF AMENDMENT

If any provision of this ordinance is invalid or unconstitutional, or the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this ordinance, which can be given effect without the invalid or unconstitutional provision, or its application.

Approved and adopted this 20 day of March, 20 18

VOTED FOR: 5

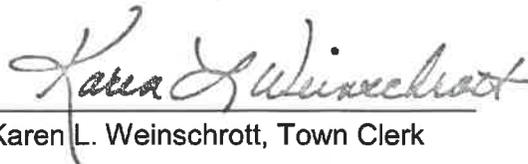
VOTED AGAINST: 0

New Language in bold

TOWN OF GRAND CHUTE

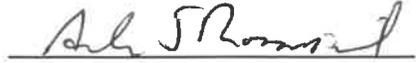


David Schowalter, Town Chairman



Karen L. Weinschrott, Town Clerk

Approved as to Form



for Charles Koehler, Attorney
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